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C O N F I D E N T I A L SECTION 01 OF 03 SARAJEVO 000467

SIPDIS

DEPARTMENT FOR EUR(JONES), EUR/SCE(FOOKS/MCGUIRE); NSC FOR  
HELGERSON

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TAGS: [PGOV](#) [PREL](#) [PINR](#) [KDEM](#) [BK](#)

SUBJECT: BOSNIA - TIHIC AND COVIC EAGER TO ENGAGE ON  
CONSTITUTIONAL REFORM BUT SEEK PROMINENT U.S. ROLE

REF: SARAJEVO 381

Classified By: Ambassador Charles English. Reason 1.4(b) and (d).

¶1. (C) SUMMARY: In an April 8 lunch with Ambassador, Party of Democratic Action (SDA) chairman Sulejman Tihic and Croatian Democratic Union (HDZ)-BiH chairman Dragan Covic focused almost exclusively on constitutional reform (CR). The two men discussed the positive momentum generated by the recent initiative in Parliament to create a working group tasked with generating proposals on CR, although they acknowledged the challenges that the Serbs -- particularly Alliance of Independent Social Democrats (SNSD) chairman Milorad Dodik -- will present throughout any CR process. Specifically, Dodik has waffled on previous, Prud-related commitments on CR (Reftel), directing his parliamentarians not to support the very initiative to which he agreed during his most recent meeting with Tihic and Covic. Tihic suggested that Dodik will support the elements of CR that harmonize the Bosnian Constitution with the European Convention on Human Rights (ECHR) but that only significant international pressure would bring him to the table on any other CR points. Tihic and Covic themselves are enthusiastic about the prospect of CR and urged that the U.S. play a strong role in the process. Their exchange with the Ambassador demonstrated, though, that they have not fully considered some key elements of the process, particularly the need for Tihic to concede some points to Covic in order to secure Croat buy-in to a process that will not produce an outcome many Croats seek: a third, Croat-majority entity. Based on this conversation, our sense remains that if we choose to engage on CR, we will need to establish a clear set of parameters from the outset. We will also need to be prepared to guide all parties carefully through every step of the process. And finally, we need to address a possible role for the wider international community, specifically EU representatives, to assure any effort we undertake will not be quickly undercut. END SUMMARY

Parliament Engages on Constitutional Reform  
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¶2. (SBU) Building on their leaders' Prud commitments, SDA, HDZ-BiH, and SNSD on March 26 introduced an initiative into the House of Peoples (HoP) intended to launch a CR process. The HoP decision called for the creation of a working group within Parliament to draft amendments to the current constitution, which would pertain to the:

- Reconciliation of Bosnia's Constitution with the ECHR;
- Responsibilities of the state, middle and local levels of government;
- Functioning of state institutions;

-- Territorial organization of Bosnia "and the middle level of governance"; and  
-- Other constitutional matters.

The HoP approved the initiative, then sent it to the House of Representatives (HoR) for consideration.

Dodik Waffles  
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13. (C) Though Dodik had previously agreed with Tihic and Covic to support a CR initiative along the lines of the HoP decision, Dodik was quick to distance himself from the HoP's action. Instead, he instructed his MPs in the HoR not to support the amendment and chided his HoP delegates for having done so, allegedly against his instructions. Tihic publicly speculated that Dodik may have backed off his earlier support because opposition parties in the RS had accused him of putting the RS at risk, a point Tihic underscored in his April 8 lunch with the Ambassador. Covic echoed Tihic's analysis. Both men also conceded that it would be difficult to get Dodik, let alone other Serb political leaders, to engage constructively on CR. Tihic speculated that Dodik would support harmonizing Bosnia's Constitution with the ECHR but would draw the line there. Nonetheless, Tihic and Covic predicted that the HoR would ultimately produce an initiative Dodik could support.

Tihic and Covic Enthusiastic  
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14. (C) Notwithstanding Dodik's tepid engagement thus far, Tihic and Covic conveyed to the Ambassador their desire to begin CR this summer. Their aim, they said, was to complete it before the 2010 elections "so that the same institutions and leaders are not in place for another four years." They underscored the importance of strong USG engagement in any CR process, arguing that CR is not worth attempting if the USG is not involved. Covic stressed that U.S. engagement would need "to be serious" and require political engagement from Washington as well as the Embassy. Tihic and Covic noted that they wanted the leaders of all political parties involved in any CR process, adding that if it were limited to the "Prud Three," they would lose time fighting political battles with the other parties over each element of the CR process. Tihic opined that CR must proceed through amendments, rather than drafting an entirely new constitution, something both he and Covic claimed Haris Silajdzic, Bosniak member of the Tri-Presidency and leader of the Party for BiH (SBiH), was ready to endorse, albeit only privately. Tihic added that CR would need to limit entity voting in some way to improve the functionality of the state.

What's in it for the Croats  
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15. (C) Covic argued that CR must produce "full equality" for the Croats. The Ambassador was quick to explain that the U.S. would not support the creation of a third, Croat majority entity, if that was Covic's definition of "full equality." Covic complained that Croats were "being systematically eliminated from decision-making processes" in the state and Federation governments and that Croats were underrepresented in both, particularly in the judiciary. Covic acknowledged that a CR process justified on the basis of improving the functionality and efficiency of state-level institutions and reducing ethnic blockages could not then produce an additional Croat veto in the state Parliament, but he stressed that he could not "sell" a CR process to his constituency without clear, tangible benefits. Covic implied that the best way to accomplish this objective was to make Federation reform part of any CR process. Covic was reluctant, however, to offer specifics about what changes he sought in the Federation.

16. (C) Tihic was visibly uncomfortable at the prospect of adding Federation reform to the CR agenda. He refused to respond to a question about what types of compromises Bosniaks could make at the Federation level in order to secure Croat support for a stronger state, which did not include either a third entity for Croats or some sort of "national peoples" veto in the state Parliament for Croats. Tihic suggested that Federation reform could not take place unless RS constitutional reform were also on the table, claiming that entity constitutional reform had to be "symmetrical." Covic (somewhat surprisingly) agreed with Tihic. The Ambassador replied the CR process would be "dead in the water" if it were linked to RS constitutional reform. The Ambassador suggested that territorial reorganization would also need to be taken off the table from the beginning in order to get the Serbs to cooperate. The Ambassador noted that the Prud-inspired discussion of "four territorial units," which degenerated quickly into talk of secession and war, highlighted the risk of leaving the issue open. Tihic and Covic objected, arguing (unconvincingly) that territorial issues should remain on the agenda, even if they were not discussed immediately.

Comment  
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17. (C) The Ambassador's conversation with Tihic and Covic underscored that domestic enthusiasm among Bosniaks and Croats for tackling constitutional reform this year is growing. Though the Serbs claim they do not "need" constitutional reform and are clearly reluctant to engage, Dodik's decision to allow CR onto the Prud agenda and to let SDA, HDZ, and SNSD parliamentarians begin the process of fashioning a domestic CR body has created a momentum on CR that he is finding difficult to resist. Nonetheless, both Tihic and Covic seem overly optimistic about the prospects of

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CR gaining genuine traction in the RS. It is also clear that Bosniaks and Croats are looking to the U.S. to engage on CR; neither believes that a CR process could be successful without a U.S. role.

18. (C) The Ambassador stressed that the U.S. was not ready to commit to a specific role in CR but underscored long-standing U.S. policy: 1) CR must focus first and foremost on improving the functionality and efficiency of state-level institutions; 2) CR must be an evolutionary/step-by-step process that takes Dayton as its basis; and 3) CR must be approached from all sides in a manner that is constructive and realistic. These points continue to strike us as important in guiding the U.S. approach to constitutional reform. Based on this conversation, our sense remains that if we choose to engage on CR, we will need to establish a clear set of parameters from the outset. We will also need to be prepared to guide all parties carefully through every step of the process. And finally, we need to address a possible role for the wider international community, specifically EU representatives, to assure any effort we undertake will not be quickly undercut.  
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